

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
WACO DIVISION

**WSOU INVESTMENTS, LLC D/B/A
BRAZOS LICENSING AND
DEVELOPMENT,**

Plaintiff

v.

**TP-LINK TECHNOLOGY CO.,
LTD.,**

Defendant

**Case No. 6:20-cv-01012
Case No. 6:20-cv-01013
Case No. 6:20-cv-01014
Case No. 6:20-cv-01015
Case No. 6:20-cv-01016
Case No. 6:20-cv-01017
Case No. 6:20-cv-01018
Case No. 6:20-cv-01019
Case No. 6:20-cv-01020
Case No. 6:20-cv-01021
Case No. 6:20-cv-01022**

JURY TRIAL DEMANDED

MOTION FOR RECONSIDERATION

Plaintiff WSOU Investments, LLC d/b/a Brazos Licensing and Development (“WSOU”) moves for reconsideration of the denial of its motion for leave to effect alternate service.

On November 12, 2020, the Court issued a text order denying the motion. In the text order, the Court noted:

The Court notes that Plaintiff has not even attempted to serve Defendant through readily available means. Therefore, this Court will not allow alternative service. However, the Court notes that if Plaintiff is still unable to effectuate service after exhausting all available avenues and attempting in good faith to serve Defendant, this Court will allow Plaintiff to file a motion again requesting leave to effect alternative service.

However, as the Court has previously stated, it is not necessary for Plaintiff to attempt and fail to effectuate service before leave to effectuate alternative service can be considered and granted. Specifically, this Court has stated:

[A] plaintiff does not have to attempt to effect service under Rule 4(f)(1) prior to requesting the authorization of an alternative method of service pursuant to Rule 4(f)(3). *Affinity Labs of Texas, LLC v. Nissan N. Am. Inc.*, No. WA:13-cv-369, 2014 WL 11342502, at *1 (W.D. Tex. July 2, 2014).

Terrestrial Comms LLC v. NEC Corp., No. 6:20-cv-00096-ADA, 2020 U.S. Dist. LEXIS 110983, at *4 (W.D.Tex. June 24, 2020). In *STC.UNM*, the Court further explained:

[A] plaintiff does not have to attempt to effect service under Rule 4(f)(1) or Rule 4(f)(2) prior to requesting the authorization of an alternative method of service pursuant to Rule 4(f)(3). *Rio Properties, Inc.*, 284 F.3d at 1015 ("[E]xamining the language and structure of Rule 4(f) and the accompanying advisory committee notes, we are left with the inevitable [*4] conclusion that service of process under Rule 4(f)(3) is neither a 'last resort' nor 'extraordinary relief.' It is merely one means among several which enables service of process on an international defendant."). In the end, any alternative method of service authorized must be "reasonably calculated, under all the circumstances, to apprise interested parties of the pendency of the action and afford an opportunity to present their objections." *Mullane v. Cent. Hanover Bank & Trust Co.*, 339 U.S. 306, 314, 70 S. Ct. 652, 94 L. Ed. 865 (1950).

STC.UNM v. Taiwan Semiconductor Mfg. Co. Ltd., No. 6:19-cv-00261-ADA, 2019 U.S. Dist. LEXIS 231994, at *3 (W.D. Tex. May 29, 2019).

Because, as the Court has noted, Plaintiff is not required to first attempt service and fail before requesting alternative service as provided by the rules, Plaintiff respectfully requests reconsideration of its motion to effectuate service. As presented in

the motion, the alternative service is reasonable calculated under all circumstances to apprise the Defendant of the pendency of the action and afford them an opportunity to be heard. Alternatively, Plaintiff requests a hearing on its motion.

Dated: November 17, 2020

Respectfully submitted,



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